An Roinn Airgeadais
Department of Finance

14 January 2019

Mr. Ken Foxe
Right to Know
ken@righttoknow.ie

RE: FOI REQUEST REF: 377/18

Dear Mr. Foxe,

I refer to your (amended) request of the 20/12/2018 made under Section 12 of the FOI Act 2014 for information on the following:-

> *"the request for advice to the Attorney General by the Department of Finance relating to a proposal to offer a 30% flat rate of tax to up to 5% of employees of certain firms in return for jobs..." "*

As the Decision Maker in this case, I made a final decision on your request on 14/01/19. Under Section 13 of the FOI Acts, I have decided to grant you access to the information covered by your request.

Right of Appeal

Upon receipt of this reply, if you are not content with the outcome or the decision made, you are entitled to seek an internal review under Section 21(7) of the Act. A request for an internal review should be made within four weeks of the date of this decision to:

FoI Unit
Department of Finance
Upper Merrion Street
Dublin 2
DO2 R583

Please include the FoI reference number with your request for internal review. The making of a late request for internal review may be permitted in certain circumstances. If your request relates to non-personal information you are liable for a fee of €30 (€10 for Medical Card holders) when you request an internal review. Payment should be made by way of bank draft, money order, postal order or personal cheque, and made payable to [Insert details]. Alternatively, payment can be made by electronic means to the following account:

BANKING DETAILS FOR ELECTRONIC PAYMENTS: Finance (Finance EFT Receipts)

Name: Danske Bank
IBAN: [redacted]
Account: [redacted]
Sort Code: [redacted]
BIC: DABAIE2D

If you are unhappy with the response you receive to your internal review request, you have a right to appeal to the Office of the Information Commissioner. This appeal must be made within 6 months of the date of the internal review decision and may be made by writing to:-

Mr. Peter Tyndall, Information Commissioner, 18 Lower Leeson Street, Dublin 2.

If you request relates to non-personal information you are liable for a fee of €50 (€15 for Medical Card holders) and this fee is payable to the Office of the Information Commissioner on lodging your appeal.

Publication of Decisions

In accordance with our obligations under Section 8 of the FOI Act, it is the intention of the Department of Finance to publish FOI decisions relating to non-personal records. Such decisions will be published in our Disclosure Log on our website available at https://www.finance.gov.ie/corporate/foi/foi-requests/

Yours sincerely,

[redacted]

Patrick Brennan
Tax Policy Division
Department of Finance

	FOI Request Reference: 377-2018							
Date	Record No	Brief Description	No. of Pages	Decision Grant/Part Grant/Refuse	Basis of Refusal: Section of Act	Reason for Decision	Public Interest Considerations (for and against release)	Record Edited/Identify Deletions
08/07/2014	1	Request for advice on SEER proposal	4	Grant	-	-	-	

An Roinn Airgeadais
Department of Finance

BUDGET CONFIDENTIAL

8th July 2014

Attorney General's Office
Government Buildings
Dublin 2.

Re : Budget 2014

Proposed tax incentive scheme *"Senior Executive Employment Relief (SEER)".*

Dear Attorney General's Office,

I am writing to seek your advice as to whether a State Aid issue arises in relation to a proposed new tax incentive scheme, *"SEER"*, that is being considered in the context of the forthcoming Budget.

Background

As you may be aware, in Budget 2012, the Minister for Finance, Mr Michael Noonan T.D., announced the introduction of the *"Special Assignee Relief Programme" (SARP)*. The aim of the relief was to reduce the cost to employers of assigning skilled individuals in their companies from abroad to take up positions in the Irish-based operations of their employer thereby creating more jobs and facilitating the development and expansion of businesses in Ireland. SARP was introduced for an initial three year period. On its introduction, Minister Noonan committed to a review of the programme before it was due to end on 31 December 2014.

This Department has been carrying out a review of SARP in recent months and as part of the review, a replacement scheme to SARP is under consideration. Subject to Ministerial and Government approval, the proposed scheme would be called the ***"Senior Executive Employment Relief (SEER)".***

Rationale behind the proposed "SEER"

SEER would be specifically designed to support investment and job creation in the economy. This new programme would assist the creation of jobs by supporting the transfer of strategic

management leadership and knowledge from a parent of a subsidiary company based overseas into Ireland to drive specific investments and their associated jobs.

Companies who create at least 10 additional jobs as part of an approved job creation plan, which requires the transfer of skills and expertise from its overseas parent or subsidiary, would be able to nominate senior executives to base themselves in Ireland. The role of these senior executives would be to ensure the efficient and effective transfer of corporate knowledge into Ireland and the creation of additional jobs. The exchequer would benefit from the creation of these additional jobs and associated tax revenue.

Outline of the proposed relief

- The senior executive would pay an overall effective rate of tax of 30% on all remuneration, provided their minimum salary is at least €75,000.
- The company must create, within three years of the employee's assignment to Ireland, at least 10 additional jobs for every assignee, as part of an approved job creation plan – to be approved by the IDA.
- The relief will be available for an initial three years, with the possibility to extend to 5 years providing the jobs milestone has been reached.
- Where the company fails to meet the agreed targets, the company will be liable to repay all of the relief that was provided to the senior executive and would have to agree to this in advance of the employee's assignment to Ireland.
- Relocation and living expenses, school fees and one trip home per year will be included in the exemption.
- The individual must be tax resident in Ireland.
- A maximum of 5% of a company workforce in Ireland could avail of the programme.
- The relief would be available either via the payroll system or on a self-assessed basis.
- The senior executive must have been employed by the parent company or subsidiary for a minimum of 6 months prior to their assignment to Ireland. The scheme would not be available to new hires.
- The scheme would run for 5 years at which stage it would be reviewed.

Outline of the approval process

The programme would be managed by the IDA and administered by the Revenue Commissioners. The company would be required to submit a business plan to the IDA of the proposed investment. This plan would include:

- Background information on the company.
- An overview of the proposed investment in Ireland.
- The number and type of direct jobs that would be created by year 3 with annual build-up.
- Details of the senior executives that will be transferring to Ireland including rationale as to why they are critical to the establishment and/or growth of the Irish operation.

The IDA would review and evaluate the business plan and, based on the merits of the plan, would make a recommendation to the Revenue Commissioners for approval or rejection of the individual(s) as eligible candidates under the programme. The criteria upon which the application would be validated would include:

- Analysis of the current scale and historic growth pattern of the applicant company.
- Details of the number and type of jobs that will be created in Ireland, including details as to how the senior executive will contribute to the generation of the additional jobs.

Proposed Oversight

At the end of year 3, it is proposed that the company would submit to the IDA a comprehensive report detailing the job creation impact versus the original target of each individual under the programme. The report will be provided to validate the benefit of each successful application. Where the programme did not deliver the requisite number of jobs, the company will be liable for the repayment of the tax relief granted to the senior executive. Where the employment target has been reached, the relief will be granted to the senior executive for a maximum of a further 2 years.

Worked Example

A company proposed to bring a single individual to Ireland on a salary of €200,000. The individual is entitled to personal tax credits of €3,300.

The company submits a proposal to the IDA containing all of the required information. The proposal is accepted and the individual is assigned.

Assignee Salary

Gross Salary	€200,000
Tax payable (effective rate of 30%) less credits	€59,010
Net Salary	€140,990
Tax Foregone over 5 years (compared with effective rate of 46.57%)	€154,114
Gain to the Exchequer over 5 years	€295,050

By way of explanation, the use of the term "Tax Foregone" is somewhat of a misnomer. During the public consultation we recently conducted on SARP, the consensus of stakeholders was that it was unlikely that "assignees" would come to Ireland in the absence of an incentive and that the assignee's company would factor in the existence of such an incentive in their decision to locate part of their business in Ireland. Thus, rather than being tax foregone, it can be argued that any tax paid by these "assignees" under the proposed scheme would be additional revenue that might not be generated otherwise. From the example above, an assignee earning €200,000, would generate an additional €59,010 to the Exchequer per annum in terms of tax. It is also reasonable to assume that additional spending would take place in the economy as their families

would also come to live here and would spend locally. Furthermore, the additional revenue raised from the jobs the company would be obliged to create would also arise.

State Aid

Having consulted with the IDA, it is our view that the proposed "SEER", as a general tax relief, does not constitute a State Aid. However, before proceeding with further consideration of the proposed relief, we would welcome your advice, please, on whether the proposed relief would constitute a State Aid.

If you need any further background on the proposed scheme, please contact myself (tel: [redacted]) or Sinéad Reynolds (tel: [redacted].

Many thanks for your assistance in this matter.

Yours sincerely,

[redacted]

Marianne Nolan

Income Tax Incentives Section

Fiscal Division